HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.20853 of 2004

Dated: 09th November, 2005

Between:

1. C.Laxmaiah, S/o.Ramachandraiah, R/o.H.No.4-67,

Saroornagar village and Mandal, R.R. District

and others.

..... PETITIONERS

AND

1. The Government of Andhra Pradesh, rep. by its Secretary,

Revenue Department, Secretariat, Hyderabad and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 20853 of 2004

ORDER:

This writ petition has been filed by the petitioners, who are four in number, with a prayer to issue a writ of Mandamus or any other appropriate writ or direction to the respondents to act in accordance with law and forbear from interfering with the property of the petitioners in Plot Nos.7 to 11, 30 to 34, 41 to 46 and 49 to 51 comprising Survey No.9/1/J, Saroornagar Village and Mandal, Ranga Reddy District, without following due process of law and without putting the petitioners on notice of the proposed action.

2. The petitioners claim that they are the owners and possessors of Plot Nos.7 to 11, 30 to 34, 41 to 46 and 49 to 51 situated in Survey No.9/1/J, Saroornagar Village and Mandal, Ranga Reddy District, having purchased the same under

registered sale deeds. It is their contention that the respondents are trying to dispossess them on the ground that the land in their occupation falls in Survey No.9/7, which is a government land. Apprehending illegal dispossession, they have approached this Court by invoking the jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. 4th respondent filed counter affidavit. It is stated in the counter affidavit that land bearing Survey No.9/7 is a government land and whereas land bearing Survey No.9/1/J is a private land. It is further stated that the petitioners encroached a part of land in Survey No.9/7 and that they have no right over it. I deem it appropriate to refer para.4 of the counter affidavit and it is thus:

> "4. At the outset, it is to be submitted that, as per the revenue records the land in Sy.No.9/1/J is a private patta land whether the lands/plots in the above Survey Number are the petitioners land or not it is for the petitioners to establish their right, title by establishing the same before the Competent Civil Court. It is to be submitted that an extent of Ac.12.00 in S.No.9/6 is patta land and recorded in the name of one Sunder Raj Jaiswal. As per the Survey and Land Records corrections and as per the Phodi Sketch, the land to an extent of Ac.3.23 guntas in Sy.No.9/1 of Saroornagar has become S.No.9/7, which is recorded as Government land, nobody has any right over the Government land. The petitioners while obtaining the No Objection Certificate for construction of residential houses in S.No.9/1/J, they without any right or manner illegally encroached into the adjacent Government land in S.No.9/7, which is a vacant site, and constructed 6 houses in 6 guntas. Having illegally encroached into the Government land, now the petitioners without any basis seeking identification of the lands in Sy.No.9/1/J with Sy.Nos.9/6 and 9/7. As a matter of fact there is no need to identify the lands as claimed by the petitioners, since the S.No.9/1/J is a private patta land, in which the petitioners said to have made constructions. Government has no role to play in that Survey Number. When the respondents are not interfering with the activities in S.No.9/1/J, there is no need to identify their own lands in the absence of any boundary dispute between the Sy.No.9/1/J and 9/6 and 9/7."

4. Heard learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for the respondents.

5. Learned counsel appearing for the petitioners submits that the respondents are contemplating to dispossess the petitioners highhandedly from the plots

which they (petitioners) purchased under registered sale deeds and therefore, the action of the respondents is arbitrary and illegal.

6. Learned Government Pleader for Revenue appearing for the respondents submits that the petitioners are in no way concerned with the Survey No.9/7, which is a government land. He further submits that the respondents are not concerned with the land bearing Survey No.9/1/J, which is a private patta land.

7. As seen from the counter affidavit, the respondents have taken the plea that the petitioners encroached a part of land i.e. about 6 guntas in Survey No.9/7 and constructed 6 houses. If there is any encroachment of the government land by the petitioners, it is for the respondents to take appropriate steps in accordance with law to evict them. It is well settled that boundary disputes between the parties cannot be a subject matter of writ petition and remedy of civil suit cannot be replaced by writ jurisdiction under Article 226 of the Constitution of India. Parties are at liberty to establish their respective rights in a competent Civil Court.

8. With the above observation, the writ petition is disposed of. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 09th November, 2005.

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